

c.) Remarks

Claims 1, 15 and 16 have been amended in order to recite the present invention with the specificity required by statute. Accordingly, no new matter has been added.

Regarding an initial formal matter, the Examiner confirms that no prior art was found on the elected species, the search of the Mukush-type claim was extended to encompass SEQ ID NOS:1-4, 6-7, 16-30 and 32 and thus far, claims 4-14 remain withdrawn from consideration as corresponding to a non elected species. In response, Applicants wish to clarify that claims 1, 2, 6, 8, 15 and 16 encompass the selected species; accordingly, claims 6 and 8 should not be withdrawn from consideration and examined on their merits.

Claims 1-3 and 15-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Examiner states that the claims still make reference to residues Xp and Xq without antecedent basis for these variables. The Examiner also states that since the claims have been amended to recite that "X¹ to X¹⁷ may be deleted, substituted or added, or 12-aminododecanoic acid residues may be substituted or added", it is unclear where residues are added or if they qualify as X¹ to X¹⁷ residues, if 12-aminododecanoic acid residues are added only to the C-terminal, N-terminal or side chain of the peptide, and finally, how many residues may be added or substituted to the peptide. In response, the claims have been amended in order to specifically address the Examiner's noted concerns. Accordingly, this rejection is now overcome.

Claims 1-3 are rejected under 35U.S.C 102(b) as being anticipated by Kemp et al. The Examiner states that the reference teaches the sequence cyclo(CGGCGGCGG), upon which these claims read. In response, the claims have been amended in order to exclude the noted structure. Accordingly, this rejection is mooted.

Claims 1-3 and 15-16 are rejected under 35U.S.C 102(b) as being anticipated by Holzonetis et al. The Examiner states that Holzonetis et al. teach peptides that have the ability to activate DNA binding of P53 and discloses sequence which reads on the claimed sequence starting with X⁶ to X¹⁶ for KGQSTSRHKKL (Seq ID #6) or X⁴ to X¹⁶ for SKKGQSTSRHKKL (Seq ID #7). Crucial to this rejection is the Examiner's assertion that Holzonetis teaches cyclization of that peptide.

Respectfully submitted, this is an overstatement.

Holzonetis does not show any such cyclized sequence, much less the activity of such cyclized sequence. Accordingly, such is not "taught" by the prior art. Rather, Holzonetis does teach various disparate sequences, does suggest that they can be cyclized and contends any cyclized sequences would retain their activity. At the outset, while it is understood the sequences "could" be cyclized, there is clearly no reason of record to teach selecting Applicants' particular sequence from the laundry list of sequences found in Holzonetis. Accordingly, since the prior art does not show that sequence cyclized, Holzonetis does not teach the subject matter of the pending claims.

Moreover, (although the Examiner made no rejection of the pending claims under 35 U.S.C. § 103), the fact is there is no reason understood by the art or provided in Holzonetis for his cursory conclusion that any cyclized sequence would in any manner be

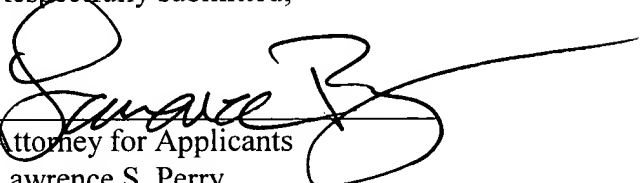
expected to retain its activity. Certainly Applicants are aware of none at the time the present invention was made. Accordingly, just as there is no reason of record to arbitrarily select Applicants' particular sequence to cyclize (and so, there is no prima facie anticipation), there is no reason whatever to actually consider that such cyclized sequence would exhibit activity. That is to say, there is no reason of record to undertake that cyclization (even if the correct sequence was arbitrarily selected) and so, there also is no *prima facie* obviousness either.

In view of the above amendments and remarks, Applicants submit that all of the Examiner's concerns are now overcome and the claims are now in allowable condition. Accordingly, reconsideration and allowance of this application is earnestly solicited.

Claims 1-16 remain presented for continued prosecution.

Applicants' undersigned attorney may be reached in our New York office by telephone at (212) 218-2100. All correspondence should continue to be directed to our below listed address.

Respectfully submitted,


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